

Law Offices of Adam Shore  
100 Park Avenue, Suite 1600  
New York, New York 10017  
646-476-4296  
Attn: Adam Shore, Esq.

March 14, 2013

Re: Papa Johns  
ADA Compliance Evaluation

Dear Mr. Shore:

As requested, I visited the above-referenced property to conduct visual observations in order to provide this ADA compliance evaluation of the KAIS ABID, d/b/a PAPA JOHN'S, KAM FOUR, INC, d/b/a PAPA JOHN'S, PARKER EAST 24<sup>th</sup> APARTMENTS, LLC and PARKER COMMERCIAL 24<sup>th</sup> ASSOCIATES and 305 EAST 24<sup>TH</sup> OWNERS CORP located at 432 Second Ave. New York, New York.

This evaluation addresses the requirements for providing accommodations for accessible access from the sidewalk and through the space. The intent of this project was for New York Engineers, LLC to render an opinion as to the extent of any issues believed to represent a violation of any applicable federal, New York State, or New York City barrier-free codes.

Throughout this letter report, the term "ADA", which stands for "The Americans with Disabilities Act" is used as a generic reference for all applicable barrier-free codes, laws and guidelines that pertain to accessibility – specifically, the following:

- The Americans with Disabilities Act (ADA).
- New York State Executive Law: Article 15: the Human Rights Law.
- Administrative Code of the City of New York § 8-107.
- NYC City Local Law 58 of 1987 (LL58/87) (amendment to NY City's Building Code).
- The 2010 Standards for public accommodations and commercial facilities, consisting of the Title III regulations at 28 CFR Part 36, subpart D, and the 2004 ADAAG.

In order to enter the space through the entrance along the sidewalk of 2 Av., a person must descend two (2) steps of unequal riser height (6" and 7") and unequal tread depth.

Once inside the space, there is an unsecured door mat. An inaccessible service and transaction counter located in the establishment 41-" high. No ADA signage inside the space exists. ADA signage on the outside doesn't contain proper size font, or brail. A buzzer<sup>1</sup> was present to signal for a temporary ramp, but no ramp was in the space. There was no seating in the space<sup>2</sup>.

See the Appendix with pictures of the inspection.

Modifications can be made without much difficulty and expense to make the facilities more accessible and barrier free. In order to accomplish this task, the following items would need to be addressed:

1. *Entrance steps and doorway:* To address this condition, a permanent small ramp can be constructed from the sidewalk level up to the main floor level; the ramp would require appropriate slope, railings, and signage as required by 28 C.F.R. 36 to provide an accessible and properly designated entrance. In the alternative, a wheelchair lift may be used. In the alternative, an ADA compliant portable ramp with a non-slip surface may be used in conjunction with ADA accessible signage and buzzer to comply with 28 C.F.R. Part § 36.304 (e).<sup>1</sup> A cost estimate of providing an ADA compliant wheelchair lift is approximately \$10,000.

2. *Transaction counter:* The existing non ADA compliant transaction counter can be modified to comply with 28 C.F.R. Part 36, Section 7.2(1), which requires that a portion of the main counter (measuring a minimum of 36 inches in length) be provided, with a maximum height of 36 inches above the finished floor. The cash register display screens should be lowered with the transaction counter. A cost estimate of lowering the transaction counter is \$2,000.

3. *Service Counter:* The existing non ADA compliant service counter can be modified to comply with 2010 ADAAG, Section 902.3 which requires a portion of the main counter (measuring a minimum of 36" in length) be provided with a maximum height of 36" above the finished floor. The cost estimate of lowering the service counter is the same as the cost for lowering the transaction counter.

4. *Signage:* Appropriate visual and/or tactile signage regarding services available should be provided to comply with 28 C.F.R. Part 36, Section 4.1.3(16) and 28 C.F.R. Part 36, Section 4.30.4. A cost estimate of providing appropriate signage is approximately \$200.

5. *Secured Mats:* The existing non ADA compliant mats in the store layout can be secured to be in compliance with 28 C.F.R. Part 36 and 2010 Standard, Section 302.2.

Based on the above analysis, it is my professional opinion that the subject premises is noncompliant with the ADA and New York City and New York State applicable Laws; it is recommended that Compliance Policies and Procedures be established along with the corrective actions needed to insure compliance with ADA.

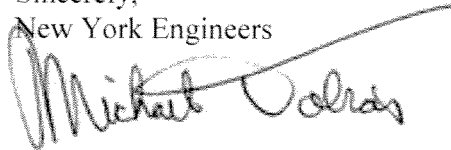
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<sup>1</sup> The ADA signage and buzzer were not present during an informal pre-suit inspection conducted by New York Engineers, LLC in November of 2012.

<sup>2</sup> Inaccessible seating was present during an informal pre-suit inspection conducted by New York Engineers, LLC in November of 2012

Thank you for the opportunity to be of service.

Sincerely,  
New York Engineers

A handwritten signature in black ink, appearing to read "Michael Tobias", with a long, sweeping horizontal line extending from the end of the signature.

By: Michael Tobias PE  
Principal

**Appendix**



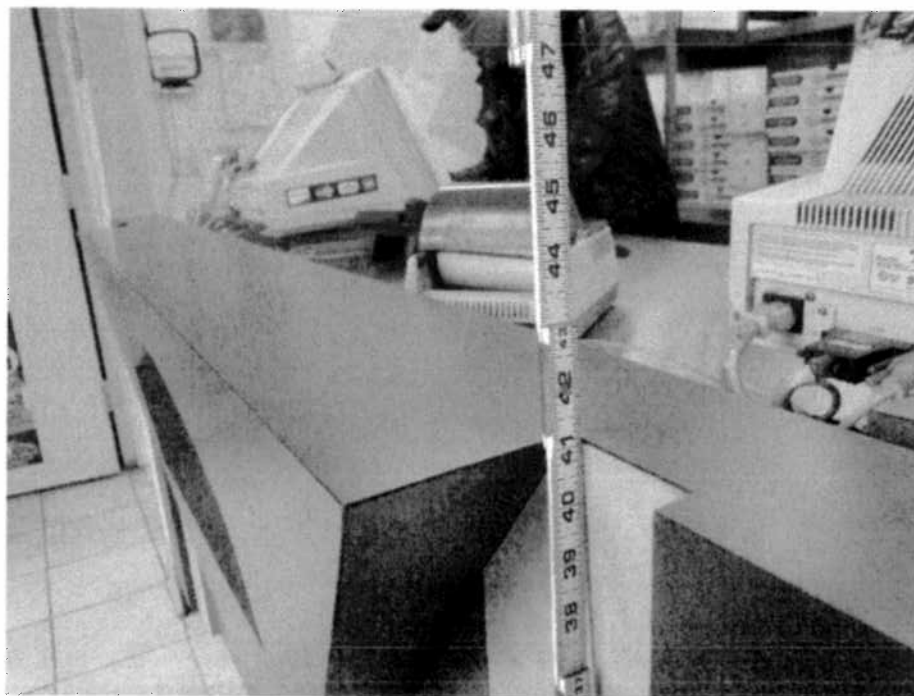
Picture 1: Store entrance, 6" and 7" stairs on entrance.



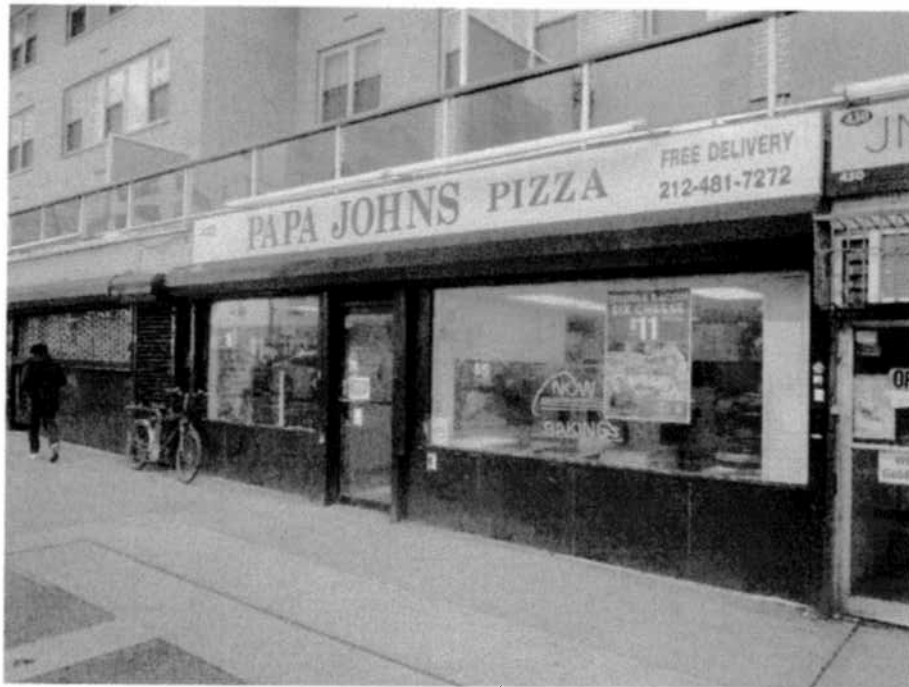
Picture 2: Unsecured entry mat



Picture 3: Inaccessible ADA signage and buzzer



Picture 4: Inaccessible service and transaction counter 41" (h)



Picture 5: Exterior



# New York Engineers

ny-engineers.com | 212.589.7042 | 1385 Broadway 15<sup>th</sup> Floor New York City

## CV for Michael Tobias PE

New York Engineers  
1385 Broadway 15<sup>th</sup> Floor  
New York, NY 10018

March 27, 2012

I have Bachelors of Science in Mechanical Engineering with Honors from Georgia Tech. I am a licensed Professional Engineer in multiple states including NY. Being the Principal in an architectural engineering firm, I'm responsible for overall project execution and quality. Over 100 architectural engineering projects and surveys have been successfully completed by me. The New York City Building Code and designing for ADA Compliance are intimately familiar to me.

### Selected ADA Compliance Rule 34 Inspections

Club Monaco – 121 Prince St. New York, NY  
Diamond's Hallmark Shop – 466 Lexington Ave. New York, NY  
Felix Restaurant – 340 W. Broadway New York, NY  
Amsterdam Boutique – 365 Canal St. New York, NY  
Verizon Wireless – 101 University Place New York, NY  
Carriage House – 219 E 59 St. New York, NY  
Kennedy Spa – 3309 W. Kennedy Boulevard Tampa, FL  
La Creperia Café – 1729 E 7<sup>th</sup> Ave. Tampa, FL  
Whole Foods – 1548 N. Dale Mabry Highway Tampa, FL

### Selected ADA Compliant Design Projects

Job Name	Owner	Space (ft2)
PS 380 Renovations 508 W 153 St.	SCA	15,055
Cooper Hewitt Design Museum - 2 E 91 St.	Smithsonian	103,500
Chandler Hall chemistry lab exhaust - 3000 Broadway	Columbia University	72,280
New Settlement Community College - 1501 Jerome Av. Bronx LEED	SCA	187,000
Life Sciences renovation - 5F	Stoney Brook University	13,200
Conference center - 16 E 34 St. 6F	Cornell University	15,579
North Instructional Building Bronx Community College LEED	DASNY	94,800
111 W Adams St. Chicago	Club Quarters Hotel	160,000
575 5th Av.	Cushman Wakefield	60,000
Surrogate court skylight renovation - 31 Chambers St.	New York City	2,400
Bank branch - 620 W 181 St.	North Fork Bank	4,136
Outside air energy recovery MER - 641 Lexington Av.	Rudin	3,000
Outside air energy recovery MER - 1 Whitehall Av.	Rudin	2,000
Bank branch - 5001 5 Av. Brooklyn	North Fork Bank	5,545
Bank branch - 9 Durant Av. Bethel, CT	Chase	4,260

# New York ● Engineers

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Bank branch - 404 5 Av.	North Fork Bank	8,600
Bank branch - 90 Park Av.	North Fork Bank	7,036
130 Cedar St. LEED	Club Quarters Hotel	185,000
Rudin's tenant 345 Park 38F	KPMG	31,157
Rudin's elevator machine room - 110 Wall St.	Rudin	1,053
Bank branch - 546 Route 111 Hauppauge	Chase	6,270
Bank Branch - 402-406 Myrtle Ave. Fort Greene Brooklyn	Chase	3,698
Bank branch - 506 Kings Highway Gravesend, Brooklyn	Chase	4,378
Bank branch - 401 W 23 St	Capital One	5,445
135 E 47 St. LEED	Club Quarters Hotel	120,000
1235 Grand St. Baldwin, NY	Chase	4,163
1003 Lexington Av. Renovation	Chase	1,768
510 Gramatan Av. Mt Vernon, NY Renovation	Capital One	4,200
Chatham Square Chinatown 2 Bowery St. 2F expansion	Chase	1,716
	Gallet Dryer Berkey	
Rudin 's tenant 845 3 Av. 8F	Lawyers	2,033
ATM 2100 Linden Blvd. Brooklyn	Chase	508
Rudin's tenant 345 Park 36F	KPMG	31,157
11 W 51 St. LEED	Club Quarters Hotel	60,000
Bank branch - Courtland Manor	Chase	3,905
Cushman Wakefield tenant 399 Park Av 7F LEED	Citigroup	59,303
Studebaker renovation - 615 W 131 St. 2F	Columbia University	29,000
Rudin's tenant additional offices 345 Park Av. 2F	KPMG	2,400
Rudin's tenant 641 Lexington Av. 24F	My Publisher	4,973
Rudin's tenant 345 Park Av. 3F LAN room upgrade	Bristol Meyers Squibb	400
Rudin's tenant 345 Park Av. 2F Compliance center	KPMG	6,800
Fairchild Lab Cleaning rooms renovation -	Columbia University	2,000
PS 277 - 153-27 88 Av. Queens	SCA	90,000
ORFE building LEED	Princeton University	40,000
Rudin's supplemental replacement 1 battery park 5F	Rudin	9,000
Rudin's prebuilt 845 3 Av. 14F	Rudin	7,900